

DECISION RECORD and FINDING OF NO SIGNIFICANT IMPACT

Martin's Cove Lease

I. DECISION

It is my decision to issue a lease to the Corporation of the Presiding Bishop of the Church of Jesus Christ of Latter-Day Saints (Corporation) for a 933.49 acre parcel of land in Natrona County, Wyoming, which includes the Martin's Cove historic site. The lease term is for 25 years, and it may be renewed on terms which are mutually acceptable to both parties at the time of renewal. This action is authorized by Public Law 108-137 and described as Alternative A of Environmental Assessment No. WY-050-EA4-141. The lease will be granted subject to the conditions of PL 108-137, Section 314. One of these conditions is that the Corporation shall enter into a lease covenant that ensures that public access will be provided across private land owned by the Corporation to Martin's Cove and to Devil's Gate. Copies of both the lease and the lease covenant are attached.

PL 108-137 requires that the Corporation make lease payments which reflect the fair market rental of the public lands to be leased. Under PL 108-137 lease payments are offset by the value of the public access provided by the lease covenant. The values provided by the Appraisal Services Directorate in a October 6, 2004, and in a October 7, 2004, appraisal are accepted and approved for this action. The Fair Market Value (FMV) rental of the lease is \$17,000 per year. This is offset by the FMV of the lease covenant granted by the Corporation of \$1,000 per year. The annual rental due at the time of lease signing and every year thereafter on October 26 from the Corporation is \$16,000. The FMV rental will be re-evaluated and adjusted when the lease is renewed.

The public lands being leased have been examined in accordance with Section 120(h) of CERCLA. No evidence was found to indicate that any hazardous substance was stored for one year or more or disposed of or released on the property.

II. ALTERNATIVES CONSIDERED

Environmental Assessment WY-050-EA4-141 considered two alternatives in detail: to issue the lease as directed by P.L. 108-137; and the "No Action" alternative, under which no lease would be issued.

III. RATIONALE

I have determined that issuance of the lease would not cause any significant impacts to the human environment, nor would it result in unnecessary or undue degradation to the public lands. The Corporation has not proposed any additional development at the site, so the environmental impacts resulting from issuance of the lease are minimal. The lease would merely continue the "status quo" of the management agreement currently in effect between the Corporation and BLM.

I also find that issuance of the lease would be in the public interest. The lease covenant provision of P.L. 108-137 would ensure continued public access not only to Martin's Cove but also to the Devil's Gate historic site. This access cannot be guaranteed under existing land ownership patterns. As required by PL 108-137, the Corporation has also completed a boundary survey of the property and has marked the exterior boundary of the proposed leased area.

Selection of the "No Action" alternative would not be in compliance with P.L. 108-137.

IV. FINDING OF NO SIGNIFICANT IMPACT

I have reviewed Environmental Assessment WY-050-EA4-141 including the explanation and resolution of any potentially significant environmental impacts. I have determined that the proposed action will not have any significant impacts on the human environment and that an EIS is not required. I find that implementation of the proposed lease would not result in unnecessary or undue degradation of the Public Lands. I have determined that the proposed action is in conformance with the appropriate approved land use plans. It is my decision to implement the proposed action.

V. EA ERRATA

The lease instrument was modified subsequent to the version that is included in Appendix B of the EA. In Section 1, the words, "...paid annually in advance." are added after the rental amount is stated. In Section 5 (b), the sentence, "The rental amount shown in Section 1 has been offset by \$1,000." was added. In Section 10, the word "sell" was deleted. The amounts reflecting the FMV determinations resulting from the appraisal (see section I of this DR) were inserted at the appropriate places. The copy of the lease instrument attached to this Decision Record reflects these changes.

VI. APPEALS


This decision may be appealed to the Interior Board of Land Appeals, Office of the Secretary, in accordance with the regulations contained in 43 CFR, Part 4 and the enclosed Form 1842-1. If an appeal is taken, your notice of appeal must be filed in the Wyoming State BLM Office, P.O. Box 1828, 5353 Yellowstone Road, Cheyenne, Wyoming 82003-1828 within 30 days of the date that notice of this decision is published in the Casper Star-Tribune. The appellant has the burden of showing that the decision appealed from is in error.

If you wish to file a petition pursuant to regulation 43 CFR 4.21 (58 FR 4939, January 19, 1993) or 43 CFR 2804.1 or 43 CFR 2884.1 for a stay of the effectiveness of this decision during the time that your appeal is being reviewed by the Board, the petition for a stay must accompany your notice of appeal. A petition for a stay is required to show sufficient justification based on the standards listed below. Copies of the notice of appeal and petition for a stay must also be submitted to each party named in this decision and to the Interior Board of Land Appeals and to the Office of the Solicitor (see 43 CFR 4.413); Rocky Mountain Region; 755 Parfet Street, Suite 151; Lakewood, Colorado 80215; at the same time the original documents are filed with this office. If you request a stay, you have the burden of proof to demonstrate that a stay should be granted.

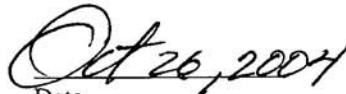
Standards for Obtaining a Stay

Except as otherwise provided by law or other pertinent regulation, a petition for a stay of a decision pending appeal shall show sufficient justification based on the following standards:

- (1) the relative harm to the parties if the stay is granted or denied;
- (2) the likelihood of the appellant's success on the merits;
- (3) the likelihood of immediate and irreparable harm if the stay is not granted; and
- (4) whether the public interest favors granting the stay.



Robert A. Bennett
Wyoming State Director


Date